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ATTORNEY FOR MECHANICS BANK, A CALIFORNIA BANKING CORPORATION

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

IN RE:	§	
	§	
JOSHUA & DESIREE LIVINGSTON,	§	CASE NO. 24-41102-ELM-13
DEBTORS,	§	
	§	
MECHANICS BANK, A CALIFORNIA	§	
BANKING CORPORATION,	§	
MOVANT,	§	
	§	
VS.	§	A Hearing on the Motion for Relief from
	§	the Automatic Stay or, in the Alternative,
JOSHUA & DESIREE LIVINGSTON,	§	Request for Adequate Protection set:
RESPONDENTS.	§	JULY 3, 2024 AT 9:30 AM

MOTION FOR RELIEF FROM THE AUTOMATIC STAY
OR, IN THE ALTERNATIVE, REQUEST FOR ADEQUATE PROTECTION

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, Mechanics Bank, a California banking corporation ("Mechanics Bank"), complaining of Joshua & Desiree Livingston ("Debtors") and for cause of action would respectfully show the Court as follows:

1. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. § 157 and 11 U.S.C. § 362. This is a core proceeding.
2. Mechanics Bank, a California banking corporation is a corporation doing business in Texas. Debtors may be served at 3455 FM 731, Burleson, TX 76028.
3. Debtors filed a petition pursuant to Chapter 13 of Title 11 on or about March 30, 2024. An Order for Relief was subsequently entered.
4. Mechanics Bank is a secured creditor of the above-referenced Debtors by virtue of a security interest in a 2015 Audi A5, Vehicle Identification Number WAUMFAFR5FA050789.
5. Debtors are obligated under the terms of their Chapter 13 Plan to pay Mechanics Bank directly.

6. As of June 3, 2024, Mechanics Bank was owed the net contractual balance of \$13,499.08 with regard to the vehicle. The monthly payments are \$425.64 each. As of June 3, 2024, the account was due for the April 1, 2024 payment and all payments due since that time. Total arrears as of June 3, 2024 were \$1,465.22.

7. But for the automatic stay, Mechanics Bank could and would foreclose its lien on the collateral in which it holds a security interest.

8. Mechanics Bank does not have and Debtors are not able to offer adequate protection of Mechanics Bank's interest in the collateral securing Mechanics Bank's debt.

9. Cause exists to terminate the automatic stay because of Debtors' failure to timely make payments per the terms of the Contract and Plan.

10. Further cause may exist to terminate the automatic stay if the vehicle is not properly insured. Mechanics Bank does not have proof of current insurance listing Mechanics Bank as loss payee.

11. Because the collateral described herein depreciates and may not be insured, any Order either terminating or conditioning the automatic stay should be effective immediately and there should be no stay of the Order for fourteen days after the entry of the Order.

WHEREFORE, PREMISES CONSIDERED, Mechanics Bank, a California banking corporation prays for:

1. An Order of this Court granting Mechanics Bank relief from the automatic stay imposed pursuant to 11 U.S.C. § 362;

2. An Order of this Court authorizing Mechanics Bank to exercise its state law rights with regard to the Collateral;

3. In the alternative, an Order of this Court requiring Debtors to provide Mechanics Bank with adequate protection of its interest in the collateral, including attorney's fees and costs;

4. An Order of this Court finding that any Order entered with regard to this Motion should be effective immediately upon its entry and should not be stayed for fourteen days following the entry of said Order; and

5. For such other and further relief, both general and specific, to which Mechanics Bank may show itself justly entitled.

Respectfully submitted,

/s/ Stephen G. Wilcox

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CALIFORNIA BANKING CORPORATION

NOTICE REGARDING REQUIRED ANSWER

PURSUANT TO LOCAL BANKRUPTCY RULE 4001-1(b), A RESPONSE IS REQUIRED TO THIS MOTION, OR THE ALLEGATIONS IN THE MOTION MAY BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT MAY BE ENTERED BY DEFAULT.

ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT ELDON B. MAHON U.S. COURTHOUSE, 501 W. 10TH ST., FORT WORTH, TX 76102-3643 BEFORE CLOSE OF BUSINESS OF JUNE 27, 2024, WHICH IS AT LEAST 14 DAYS FROM THE DATE OF SERVICE HEREOF. A COPY SHALL BE SERVED UPON COUNSEL FOR THE MOVING PARTY AND ANY TRUSTEE OR EXAMINER APPOINTED IN THE CASE. ANY RESPONSE SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT CAN BE “ADEQUATELY PROTECTED” IF THE STAY IS TO BE CONTINUED.

CERTIFICATE OF CONFERENCE

I, the undersigned, hereby certify that prior to the filing of this Motion, I did the following:
My office contacted Debtors’ attorney’s office regarding opposition to the Motion and as of the filing of the Motion, a response has not been received.

/s/ Stephen G. Wilcox

Stephen G. Wilcox

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Motion for Relief from the Automatic Stay or, in the Alternative, Request for Adequate Protection was served by FIRST CLASS MAIL, POSTAGE PREPAID on:

Joshua & Desiree Livingston
3455 FM 731
Burleson, TX 76028

and by ELECTRONIC FILING on:

Marcus Leinart
10670 N. Central Expressway, Suite 320
Dallas, TX 75231

Pam Bassel
860 Airport Frwy., Suite 150
Hurst, TX 76054

Office of the U.S. Trustee
1100 Commerce, Room 976
Dallas, TX 75242

on June 13, 2024.

/s/ Stephen G. Wilcox
Stephen G. Wilcox

SUMMARY OF EXHIBITS

1. Vehicle Retail Instalment Contract dated September 17, 2021 on a 2015 Audi A5, Vehicle Identification Number WAUMFAFR5FA050789
2. Certificate of Title on a 2015 Audi A5, Vehicle Identification Number WAUMFAFR5FA050789
3. Affidavit of Kassandra Jaramillo

*Copies of Exhibits are available by written request to:

Kim Raudry
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8323-00851-586373